IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.23463 of 1997
DATED 21-2-2007

BETWEEN
B.Srinivasa Rao

.. Petitioner

And

The Secretary/Correspondent,
Yadava High School, Old Guntur,
Guntur District and 2 others.

.. Respondents

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23463 of 1997

ORDER:

The petitioner was appointed on compassionate grounds on 22.2.1990. He was terminated on 1.2.1991 on the ground that while the concerned circular required such appointments to be made within one year of the death of the deceased, the petitioner was appointed after six years. On the ground that the said order of termination was passed in violation of the principles of natural justice, the petitioner filed W.P.No.2350 of 1992 and this Court by order dated 1.10.1996 had set aside the order of termination, leaving it open to the authorities to take action in accordance with law.

Thereafter, the impugned order dated 15.9.1997 was passed terminating the services of the petitioner. Aggrieved thereby, the petitioner again approached this Court by way of this writ petition and by order dated 18.9.1997 in WPMP No.27359 of 1997, this Court granted interim suspension of the impugned order dated 15.9.1997.

It is not in dispute that the petitioner has continued in service ever since the date of his appointment on 22.2.1990 till date i.e. for a period of around 17 years. The petitioner in his explanation specifically stated that he had, in fact, made an application on 23.3.1984, within one year of the death of his father, as contemplated in G.O.Ms.No.387 dated 3.10.1977 and that the respondent management had resolved on 30.6.1985 to appoint him as and when vacancies arise. It is clearly stated that due to differences in the Managing Committee, the District Educational Officer ran the school directly till 24.9.1989 and did not implement the resolution and it is only after the new Managing Committee took charge, he was appointed on 22.9.1990 as a Record Assistant and the same was approved by the District Educational Officer. The petitioner further contended that the management could have temporarily appointed him by relaxing the age as per G.O.Ms.No.349 dated 12.6.1984. He also stated that in a similar instance, 24 posts were sanctioned in the Panchayat Raj Department in G.O.Ms.No.343 dated 27.6.1991 whereby children of deceased employees were appointed five years after the death of the deceased Government servant. The petitioner would contend that he was not at fault and that the delay in appointing him on

compassionate grounds is solely on account of the failure of the respondents in implementing the resolution of the Managing Committee dated 30.6.1985. The inaction of the respondents could not result in his being thrown out on the streets and deny him appointment on compassionate grounds. The fact that the petitioner submitted his application within one year of the death of his father and that the Managing Committee had resolved on 30.6.1985 to appoint him on compassionate grounds is not in dispute. All that is stated is that the Government in Memo dated 17.12.1979 while clarifying certain doubts regarding implementation of G.O.Ms.No.387 dated 3.10.1977, had informed that a reasonable time of two years should be allowed with regard to the appointment of a minor child from the date of demise of the government servant. It is also not in dispute that the petitioner was aged 16 years at the time of his father's demise and attained majority within two years of the death of his father and could have been appointed within the time stipulated in Government Memo dated 17.12.1979. Delay thereafter in appointing the petitioner on compassionate grounds was not for any fault of his, but on account of the inaction of the respondents in implementing the resolution of the management dated 30.6.1985. Since the petitioner has been continuing in service for around 17 years, having been appointed on compassionate grounds, on 22.2.1990, I see no reason to now deny him appointment and upheld the order of termination. The impugned proceedings dated 15.9.1997 are accordingly quashed.

The writ petition is allowed. However, in the circumstances, without costs.

RAMESH RANGANATHAN,J

Dt: 21.2.2007
msv.